

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
D-2

DATE: Monday May 10, 2021

CASE NUMBER: C15-2021-0028

☐ - ☐ Thomas Ates
☐ Y ☐ Brooke Bailey
☐ Y ☐ Jessica Cohen
☐ Y ☐ Melissa Hawthorne
☐ Y ☐ Don Leighton-Burwell
☐ Y ☐ Rahm McDaniel
☐ Y ☐ Darryl Pruett
☐ - ☐ Agustina Rodriguez
☐ Y ☐ Michael Von Ohlen
☐ Y ☐ Nicholl Wade
☐ - ☐ Vacant
☐ - ☐ Kelly Blume (Alternate)
☐ - ☐ Carrie Waller (Alternate)
☐ - ☐ Vacant (Alternate)

OWNER/AGENT: David Morgan

ADDRESS: 3406 GONZALES ST

VARIANCE REQUESTED: The applicant is requesting variance(s) from the Land Development Code, Section 25-2-774 (*Two-Family Residential Use*) (C) (2) (a) which requires an Accessory Dwelling Unit to be located at least 10 feet to the rear or side of the principal structure (required), to 6 ft. 7 in. from the principal structure (requested) in order to erect a Single-Family residence in an “SF-3-NP”, Single- Family Residence-Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

Note: Per LDC the second Dwelling Unit must be contained in a structure other than the principal structure and a) must be located at least 10 feet to the rear or side of the principal structure; or b) above a detached garage.

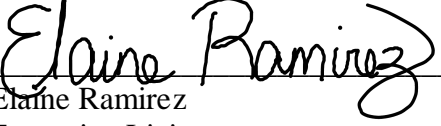
BOARD’S DECISION: May 10, 2021 POSTPONED TO JUNE 14, 2021 DUE TO LACK OF BOARD MEMBERS/VOTES

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:

(b) The hardship is not general to the area in which the property is located because:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:


Elaine Ramirez
Executive Liaison

Diana Ramirez for
Don Leighton-Burwell
Chairman

BOA GENERAL REVIEW COVERSHEET

CASE: C15-2021-0028

BOA DATE: May 10th, 2021

ADDRESS: 3406 Gonzales St

COUNCIL DISTRICT: 3

OWNER: David Morgan

AGENT: N/A

ZONING: SF-3-NP (Govalle)

LEGAL DESCRIPTION: E 63.2FT OF S150FT LOT 1 BLK 4 DIV A RESUB LOT 3-6 LATTIMORE SUBD

VARIANCE REQUEST:

SUMMARY: erect a Two-Family Residential Use

ISSUES: protected trees

	ZONING	LAND USES
<i>Site</i>	SF-3-NP	Single-Family
<i>North</i>	LR-MU-CO-NP	Neighborhood Commercial-Mixed Use
<i>South</i>	SF-3-NP	Single-Family
<i>East</i>	SF-3-NP	Single-Family
<i>West</i>	SF-3-NP	Single-Family

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
 Austin Lost and Found Pets
 Austin Neighborhoods Council
 Bike Austin
 Del Valle Community Coalition
 East Austin Conservancy
 El Concilio Mexican-American Neighborhoods
 Friends of Austin Neighborhoods
 Govalle Neighborhood Association
 Govalle/Johnston Terrace Neighborhood Plan Contact Team
 Guadalupe Neighborhood Development Corporation
 Homeless Neighborhood Association
 Neighborhood Empowerment Foundation
 Neighbors United for Progress
 Preservation Austin
 SELTexas
 Sierra Club, Austin Regional Group



May 3, 2021

James Smith
3406 Gonzales St
Austin TX, 78702

Property Description: E 63.2FT OF S150FT LOT 1 BLK 4 DIV A RESUB LOT 3-6 LATTIMORE SUBD

Re: C15-2021-0028

Dear James,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance(s) from the following sections of the Land Development Code;

Section 25-2-774 (Two-Family Residential Use) (C) (2) (a) which requires an Accessory Dwelling Unit to be located at least 10 feet to the rear or side of the principal structure (required), to 6 ft. 7 in. from the principal structure (requested) in order to erect a Single-Family residence in an "SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

Austin Energy **does not oppose** the above setback variance for an ADU, provided any proposed and existing improvements follow Austin Energy's clearance criteria requirements, the National Electric Safety Code and OSHA. Any removal or relocation of existing electric facilities will be at owners /applicants' expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action: <https://austinenergy.com/wcm/connect/8bb4699c-7691-4a74-98e7-56059e9be364/Design+Criteria+Manual+Oct+2015.pdf?MOD=AJPERES>

If you have any questions about the following comments, please contact my office.

Thank you,




Eben Kellogg, Property Agent

Austin Energy
Public Involvement | Real Estate Services
2500 Montopolis Drive
Austin, TX 78741
(512) 322-6050



D-12/5



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2021-0028
LOCATION: 3406 GONZALES STREET



1" = 168'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Board of Adjustment General/Parking Variance Application

DevelopmentATX.com | Phone: 311 (or 512-974-2000 outside Austin)
For submittal and fee information, see austintexas.gov/digitaldevelopment

WARNING: Filing of this appeal stops all affected construction activity.

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 3406 Gonzales

Subdivision Legal Description:

E 63.2FT OF S150FT LOT 1 BLK 4 DIV A RESUB LOT 3-6 LATTIMORE SUBD

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: SF-3-NP

I/We Forsite Studio on behalf of myself/ourselves as

authorized agent for David Morgan affirm that on

Month February, Day 1, Year 2021, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

☒ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: _____

Type of Structure: Single Family Home

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

We are requesting a variance from the LDC Section 25-2-774.C.2.a: Two-Family Residential Use for the requirement that a secondary dwelling unit must be located 10' to the side or the rear of the principal structure. We are proposing to maintain the existing structure on the property as an ADU and to build a new principle structure on the rear of the property.

Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

This lot has four large protected trees on the front half of the property. Three of these trees have CRZs that overlap the current structure. This makes full scale demolition of the existing structure as well as construction of a new primary structure less than ideal. The lot size and current zoning allow for the construction of a primary dwelling and an ADU on the site. The current structure at 1300sf is just above the 1100sf cap for an ADU, however demolition of the addition to the building could be accomplished outside of the 1/2 CRZ of the protected trees, bringing the existing structure into compliance with the ADU requirements.

Hardship

a) The hardship for which the variance is requested is unique to the property in that:

The location of the large trees on this lot and their intersection with the existing house make this hardship unique to this property. Other properties in the neighborhood do not have this configuration of protected trees in the front of the property therefore this hardship is uniwue to the property.

b) The hardship is not general to the area in which the property is located because:

This property is the only one in the neighborhood with a protected tree on the front lot line and on the side property line that intersect to limit the construction on the front of the property.

Area Character

The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

This variance is only requesting that the position of the ADU and the Principle structure be swapped in relation to the front lot line. This will also help to maintain the character of the neighborhood as the original 1940s house, which is in good condition, will remain on the lot and the new principle structure on the back of the property will be designed to maintain the existing neighborhood character. The principal structure constructed on the back half of the lot will have a limited impact in the site, the protected trees and no impact on the existing structure.

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: David Morgan Date: 02 / 03 / 2021

Applicant Name (typed or printed): David Morgan

Applicant Mailing Address: 3402 Gonzales

City: Austin State: TX Zip: 78702

Phone (will be public information): 2146736756

Email (optional – will be public information): [REDACTED]

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: David Morgan Date: 02 / 03 / 2021

Owner Name (typed or printed): David Morgan

Owner Mailing Address: 3402 Gonzales

City: Austin State: TX Zip: 78702

Phone (will be public information): 2146736756

Email (optional – will be public information): [REDACTED]

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

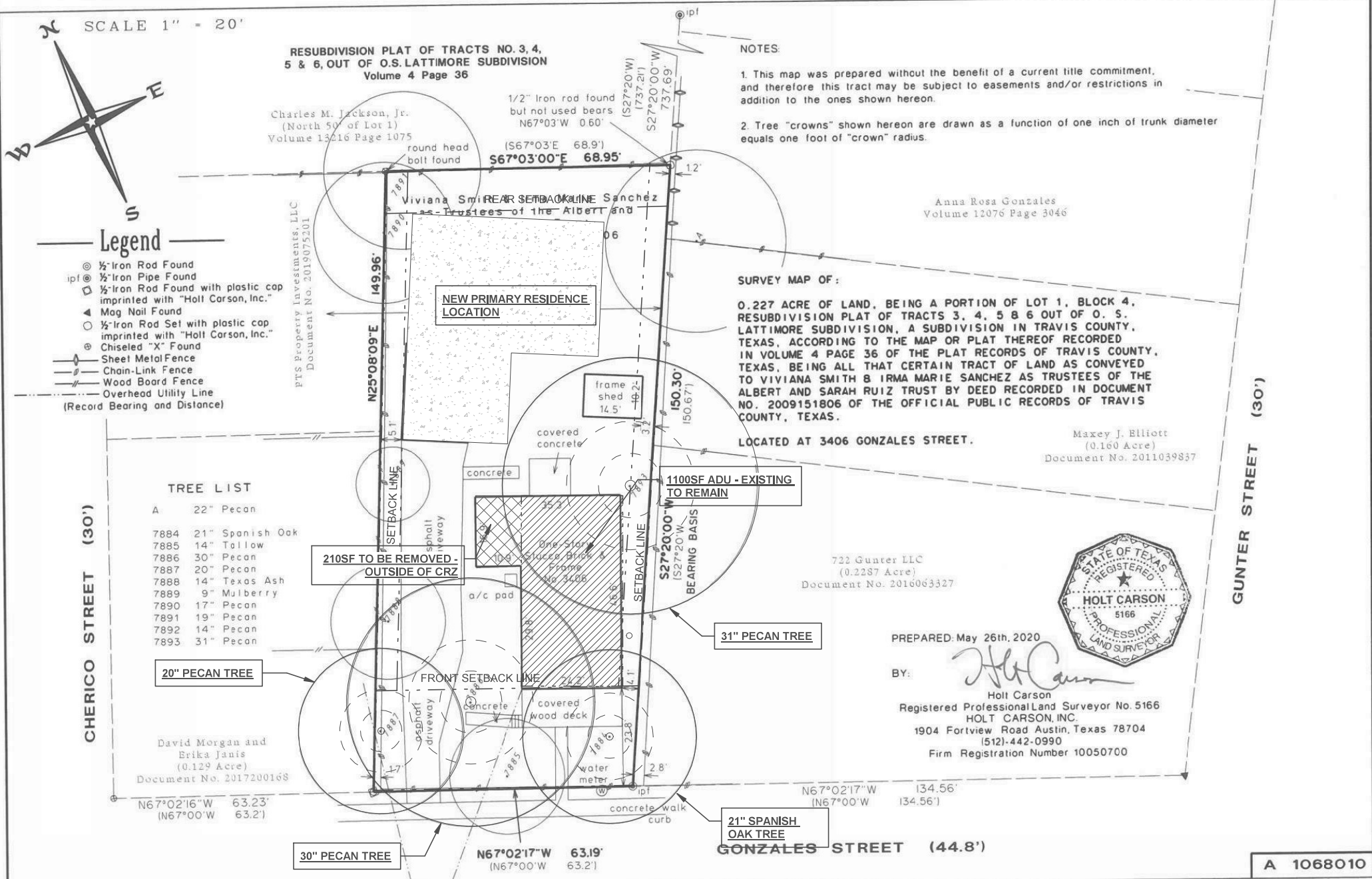
City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).



D-12/11



30" PECAN TREE

21" SPANISH OAK

3406 GONZALES ST







21" SPANISH OAK

31" PECAN TREE

EAST ELEVATION

SCALE 1" = 20'

RESUBDIVISION PLAT OF TRACTS NO. 3, 4,
5 & 6, OUT OF O.S. LATTIMORE SUBDIVISION
Volume 4 Page 36

Charles M. Jackson, Jr.
(North 50' of Lot 1)
Volume 13216 Page 1075

1/2" Iron rod found
but not used bears
N67°03'W 0.60'

(S67°03'E 68.9')
S67°03'00"E 68.95'

Viviana Smith & Irma Marie Sanchez
as Trustees of the Albert and
Sarah Ruiz Trust
Document No. 2009151806

PTS Property Investments, LLC
Document No. 2019075201

Anna Rosa Gonzales
Volume 12076 Page 3046

NOTES:

1. This map was prepared without the benefit of a current title commitment, and therefore this tract may be subject to easements and/or restrictions in addition to the ones shown hereon.
2. Tree "crowns" shown hereon are drawn as a function of one inch of trunk diameter equals one foot of "crown" radius.

Legend

- ⊙ 1/2" Iron Rod Found
 - ipf 1/2" Iron Pipe Found
 - ⊙ 1/2" Iron Rod Found with plastic cap imprinted with "Holt Carson, Inc."
 - ▲ Mag Nail Found
 - 1/2" Iron Rod Set with plastic cap imprinted with "Holt Carson, Inc."
 - ⊗ Chiseled "X" Found
 - Sheet Metal Fence
 - Chain-Link Fence
 - Wood Board Fence
 - Overhead Utility Line
- (Record Bearing and Distance)

SURVEY MAP OF:

0.227 ACRE OF LAND, BEING A PORTION OF LOT 1, BLOCK 4, RESUBDIVISION PLAT OF TRACTS 3, 4, 5 & 6 OUT OF O. S. LATTIMORE SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 4 PAGE 36 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, BEING ALL THAT CERTAIN TRACT OF LAND AS CONVEYED TO VIVIANA SMITH & IRMA MARIE SANCHEZ AS TRUSTEES OF THE ALBERT AND SARAH RUIZ TRUST BY DEED RECORDED IN DOCUMENT NO. 2009151806 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

LOCATED AT 3406 GONZALES STREET.

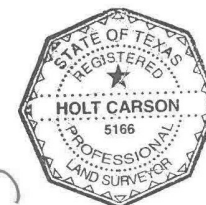
Maxey J. Elliott
(0.160 Acre)
Document No. 2011039837

TREE LIST

A	22" Pecan
7884	21" Spanish Oak
7885	14" Tallow
7886	30" Pecan
7887	20" Pecan
7888	14" Texas Ash
7889	9" Mulberry
7890	17" Pecan
7891	19" Pecan
7892	14" Pecan
7893	31" Pecan

David Morgan and
Erika Janis
(0.129 Acre)
Document No. 2017200168

722 Gunter LLC
(0.2287 Acre)
Document No. 2016063327



PREPARED: May 26th, 2020

BY:

Holt Carson
Registered Professional Land Surveyor No. 5166
HOLT CARSON, INC.
1904 Fortview Road Austin, Texas 78704
(512)-442-0990
Firm Registration Number 10050700

GUNTER STREET (30')

GONZALES STREET (44.8')

A 1068010

